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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,851	09/26/2003	Colin Andrew Low	30018433-3	1268
22879 7590 08/25/2009 HEWLETT-PACKARD COMPANY Intellectual Property Administration 3404 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528				
EXAMINER HU, KANG				
ART UNIT 3715		PAPER NUMBER		
NOTIFICATION DATE 08/25/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/672,851

Applicant(s)

LOW ET AL.

Examiner

KANG HU

Art Unit

3715

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 and 14 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Present office action is in response to amendment filed 5/6/2009. Claim 2 has been cancelled, claims 1, 3-11 are currently pending in the application.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1, 3-9 and 11 are rejected under USC 101, the claimed invention is directed to non-statutory subject matter. In order for a claimed process to be considered statutory it must be: (1) tied to a particular machine or apparatus, or (2) transform a particular article into a different state or thing. The use of a specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patent-eligibility; the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity; and the transformation must be central to the purpose of the claimed process. Claims 1 and 11 as recited do not act upon a physical object so as to provide a transformation of that object into a different state or thing. Claims 1 and 11 recites "simulating activities", "simulated creature undergoing a change in environment", neither the simulation nor the creature undergoing change physically transforms a particular article into a different state or thing as the simulation and the creature are both intangible abstraction. The method as recited also does not provide a critical tie to a particular machine or apparatus, although the claims recite "simulation observable by a user", the claims do not provide a positive recitation of any particular machine or apparatus, the

observation as claimed are merely nominal recitation and do not recite nor require the use of any specific machine or apparatus.

Claims 3-9 are also rejected for their dependency of claim 1 for failing to correct these deficiencies and therefore rejected for the same reason.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, and 3-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Starcraft (game manual provided with copyright date of 1998).

Re claim 1, Starcraft teaches a method of simulating the activities of a plurality of creatures (page 12, Terran, Zerg or Protoss), the method comprising:

simulating activities of the plurality of creatures at a first mode (page 13: mini-map) of simulation observable by a user, wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation (page 13: mini map, this is a bird's eye view of your main screen which allows you to see the entire battlefield at once, compared to the main screen, the mini-map is less detailed and less computational intensive);
and simulating an activity of one of the plurality of creatures at the second mode of simulation observable by the user (page 13: main screen), wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation (the mini-map reveals the same view of the main screen in less detailed version,

when the unit is created or destroyed in the main screen, subsequent result would also be shown in the mini-map).

wherein said second mode of simulation is utilised in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment (page 14, hide terrain – this button toggles whether or not terrain is displayed in the mini map, hiding terrain may make it easier to spot enemy units; page 17: gathering resources; page 18, viewing the maps using the mini map; when the mini map identifies enemy units, select any area on the mini-map and immediately jump to that location - the user switches the view of the main screen to the particular part of the map identified by the mini map), the second mode being utilised to simulate the activity of said one or more of said plurality of creatures undergoing the change in environment (page 19, move, stop, attack, patrol, hold positions; page 20, figure provided on the bottom of the page simulate the activity of one or more said creatures).

Re claim 3, change in environment comprises a creature undergoing at least one of: fighting (page 19, attack); mating; eating; interacting with another creature (units of each of the Terran, Zerg or Protoss interact with each other); reproducing (page 56: Each larva contains within it the genetic makeup of every other Zerg breed. A young hive will only have the genetic code for the most basic Zerg breeds, such as the Drone, but as it grows and develops new structures, the larvae can expand their library of genetic strains); sensing another creature (patrol); encountering another creature; moving to a new terrain type (move); and altering the environment (page 17, gathering resources);.

Re claim 4, the second mode is invoked at the start of the simulation so as to determine starting parameters of each creature (showing of second mode at the start of the game).

Re claim 5, second mode is utilised to determine at least one parameter affecting the activity of the simulated creature, said parameter being subsequently utilised by the first mode of simulation (page 56: Larvae will enter a pupal state and begin the metamorphosis into whichever breed is required by the hive, subsequently showing the activities and parameters on the first mode of simulation).

Re claim 6, when the method changes from utilising the second mode to the first mode, at least one parameter relating to said creature simulated by the second mode is stored for use by a later iteration of the second mode (page 18: viewing of the maps, to move using the mini-map, select the white box and move it around by holding down the left mouse button and dragging it where desired - after the player has chose to build a Refinery as shown in figure on page 18, and using the mini-map to change the location to another, the simulation at the second mode is stored and shown again later).

Re claim 7, wherein said parameter comprises at least one of creature mass; creature energy; creature strength; creature behaviour transition probabilities; creature biochemical levels; creature movement parameters; creature speed; and creature rate of turn (page 19: creature hit points would be analogous with creature mass or creature energy, equipment (armor, weapons

(creature energy, strength) or special equipment and their levels of upgrade (creature biochemical levels, terran Stimpack page 36)).

Re claim 8, said parameter comprises at least one of creature mass; creature energy; creature strength; creature behaviour transition probabilities; creature biochemical levels; creature movement parameters; creature speed; and creature rate of turn (page 19: creature hit points, equipment (armor, weapons or special equipment and their levels of upgrade).

Re claim 9, said parameter comprises at least one of creature mass; creature energy; creature strength; creature behaviour transition probabilities; creature biochemical levels; creature movement parameters; creature speed; and creature rate of turn (page 19: creature hit points, equipment (armor, weapons or special equipment and their levels of upgrade).

Re claims 10 and 11, a recordable medium having recorded thereon computer readable code, wherein the computer readable code (page 4, system requirements) is adapted to: simulate activities of a plurality of creatures at a first mode of simulation observable by a user, wherein the first mode of simulation (mini-map) is less detailed and less computationally intensive than a second mode of simulation (main screen); and simulate an activity of one of the plurality of creatures (Terran, Zerg, or Protoss) at the second mode of simulation observable by the user in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment (pages 14, 18 and 19, as explained in claim 1 above, the mini map reveals the location of the enemy, the user can select

any area on the mini map and immediately jump to that location), wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment (activities of the main screen translated into the mini-map).

Response to Arguments

4. Applicant's arguments filed 5/6/2009 have been fully considered but they are not persuasive.

Applicant's argument in regards to the 35 U.S.C. 101 rejection has been carefully considered and are not persuasive in overcoming the rejection. The applicant asserts that "plurality of creatures" is representative of a physical object, and the transformation occurs when the electronic representation is being transformed from one mode of simulation into another mode of simulation. The examiner respectfully disagrees, the plurality of creatures does not represent physical objects, as the applicant admits in the argument, that they are nothing more than electronic representations. Such electronic representation is merely intangible abstraction. Therefor the only change in the claim is that of an intangible object and not a physical article, as such there is no physical transformation and the rejection of the claims is maintained.

Applicant further asserts that the prior art relied upon "Starcraft" does not disclose, teach or suggest at least "simulating an activity of one of the plurality of creatures at the second mode of simulation observable by the user, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of

simulation, wherein said second mode of simulation is utilized in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment, the second mode being utilized to simulate the activity of said one or more of said plurality of creatures undergoing the change in environment.”

The applicant specifically asserts, the main display allegedly shown in higher detail than the mini-map, therefore Starcraft fails to use results from one mode of simulation to provide a simulation in another mode, since both simulations run concurrently. The examiner does not dispute the fact that the first mode (mini-map) runs concurrently with the simulation of the second mode (the main screen). The claims fail to recite any limitation that the two modes of simulation can not run concurrently. The claim recites "wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation", the result from the main screen (second mode), whether it would be creatures performing move, stop, attack, patrol and etc. would also provide a simulation of the plurality of creatures at the mini-map (first mode), even though the two modes run concurrently. Therefore having two modes running concurrently does not prevent the result of one mode to provide a simulation in another mode.

The applicant further asserts that the prior art does not teach of newly amended limitation of “the main display being utilized in response to a change in environment occurring in the mini-map, since both the main display and the mini-map are displayed concurrently regardless if a change in environment is occurring in the mini-map display. The examiner respectfully disagrees, as

explained in the rejection, the mini-map is an overview of the battle field, p 14 of Starcraft teaches "hiding terrain may make it easier to spot enemy units". As the main screen only provides partial view of the entire terrain, the player would rely upon the mini-map to inform the player of activities outside the main screen. As such, the main display is being utilized in response to a change in environment occurring in the mini-map. The argument provided by the applicant that because the two modes are running concurrently, therefore the main display is not being utilized in response to change in environment in the mini-map, the argument is not persuasive because the limitation does not recite that the two modes of simulation can not run concurrently.

The applicant additionally asserts that "Starcraft shows a simulation of an object at a lower resolution in a distant view before the object is shown at a higher simulation in the main display segment. Therefore even if results of one simulation depend on the other, in Starcraft, a result from a high-detailed simulation would not be used to produce a lower-detailed simulation". The applicant's argument directly contradicts the argument provided earlier, where the applicant specifically states "both simulations run concurrently." The examiner previously agreed with the applicant that the two modes of simulation indeed run concurrently. If the two simulations run concurrently, the lower resolution distant view would not be shown before the object is shown at a higher resolution. Also as explained in the first argument, it is possible to have concurrently running simulations wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation. Therefore the argument provided is not persuasive.

Applicant additionally provided arguments in regard to claims 10 and 11 in the same manner as applied to claim 1 above and will not be repeated herein.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KANG HU whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-262-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3715

/K. H./
Examiner, Art Unit 3715